THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.16489 OF 2007

Dated:02.08.2007

Between:

Jaguar Crop Sciences.

...PETITIONER

AND

The Commissioner & Director of Agriculture, Andhra Pradesh, Gunfoundry, Hyderabad.

...RESPONDENT

ORDER:

Petitioner, which is the manufacturer, is the licensee under the Insecticides Act, 1968 (for short "the Act"). It distributes its bio-products through dealers and accordingly, it obtained permission from the licensing authority to sell the bio-products from the licensed premises. While so, the Commissioner and Director of Agriculture, respondent herein, intimated the petitioner that as the bio-products are not covered either under Insecticides Act, 1968 or Fertilizer Control (Order) Act, 1985, the units to which marketing permissions of bio-products were granted earlier will be permitted to liquidate existing stocks within a period of 45 days i.e. before 10.03.2006 and no sales of bio-products will be permitted from the licensed premises of seeds, fertilizers and pesticides after 10.03.2006. In view of the same, present writ petition is filed stating that the respondent cannot interfere with the manufacture and sale of its bio-products and the same is without jurisdiction.

It is not necessary to go into the various allegations made in the writ petition, since it is categorically asserted that the products are not covered under Insecticides Act, 1968 and Fertilizer Control (Order) Act, 1985 which were being sold to the farmers from the licensed premises of dealers of pesticides/fertilizers/seeds without obtaining any marketing permission from the Department of Agriculture up to 20.10.1998.

On 20.10.1998, a decision was taken that marketting permission for the sale of bio-products has to be obtained from the Commissioner & Director of Agriculture. Subsequently, a High Level Technical Committee was constituted to scrutinize the proposals received for according marketting permissions to the bio-products. The High Level Technical Committee fixed the parameters to evaluate the bio-products before according marketting permission. To safeguard the interests of farming community and providing quality products to the farmers, the department has prohibited sale from the premises for which licence was granted.

During the course of arguments, learned Government Pleader for Agriculture & Marketting fairly admitted that there is no prohibition for storage and sale of bio-products, unless they are contraband and misbranded and no licence is required under the Act, either for manufacture or sale of bio-products.

In view of the fact that no licence is required under the Act for manufacture and sale of bio-products as long as they do not contain any ingredients of insecticide as mentioned in the schedule, i.e. Antagonistic Fungi and Bacteria, respondent cannot interfere with the store, sale and distribution of bio-products belonging to the petitioner.

It is needless to say that, if the bio-products contain any chemical or insecticides which endangers the environment, it is always open for the concerned authorities to take appropriate

action against the petitioner-manufacturer and the dealers of the said bio-products, and by the Executive Magistrate in exercise of powers under Section133 Cr.P.C.

The Writ Petition is accordingly disposed of. There shall be no order as to costs.

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02.08.2007

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